

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY UTILITIES COMPANY)
REVISED SPECIAL CONTRACT WITH)
NORTH AMERICAN STAINLESS, L.P.) CASE NO. 2003-00137

O R D E R

On May 14, 2003, North American Stainless, L.P. (NAS) filed a motion to intervene and, on the following day, filed a petition for rehearing of the Commission s April 28, 2003 Order, which accepted on a prospective-only basis a revised contract for electric service by Kentucky Utilities Company (KU) to NAS. Specifically, NAS seeks rehearing of that portion of the Commission s Order rejecting implementation of the revised contract retroactively to June 1, 2002. NAS claims that its original contract for electric service, which designated 100 percent of its load as interruptible, was the result of mutual mistake of fact because it could not actually interrupt 100 percent of its load. On discovering this factual error, NAS claims that an agreement was reached with KU to revise its power contract to reflect a small portion of its load as firm.

On May 27, 2003, KU filed a response to the petition for rehearing. KU states that there was no mutual mistake of fact regarding NAS s ability to interrupt its load and that NAS has always had the proper equipment to interrupt 100 percent of its load. Further, KU states that its billings rendered to NAS since June 1, 2002 reflected a firm load of 2,000 kW, with all load above that as interruptible, although the revised contract designates only 1,800 kW as firm load.

Based on the petition for rehearing and the response thereto, and being otherwise sufficiently advised, the Commission finds that both NAS's motion to intervene and request for rehearing should be granted. The Commission's April 28, 2003 Order rejected retroactive implementation of the revised contract based, in part, on a finding that such retroactivity would result in revised billings to NAS. However, the statements set forth in the petition for rehearing and in the response thereto indicate that, beginning June 1, 2002, KU's billings to NAS differed from both the original service contract and the revised service contract. Under these circumstances, there is a need for further development of the evidentiary record.

IT IS THEREFORE ORDERED that:

1. NAS's request to intervene and its petition for rehearing are granted.
2. NAS shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by the parties after the date of this Order.
3. Should any Intervenor file documents of any kind with the Commission in the course of these proceedings, a copy of said documents shall also be served upon all other parties of record.
4. KU shall file, within 15 days of the date of this Order, its responses to the requests for information set forth in Appendix A attached hereto and incorporated herein by reference. Each response shall include the name of the witness who will be responsible for responding to questions relating to the information provided.

Done at Frankfort, Kentucky, this 2nd day of June, 2003.

By the Commission

ATTEST:

Wm. H. I. Barker

Deputy Executive Director

Case No. 2003-00137

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2003-00137 DATED June 2, 2003

1. For what billing periods was NAS billed as having a firm load of 2,000 kW?
2. Is NAS currently being billed based on a firm load of 2,000 kW or 1,800 kW? If 1,800 kW, on what date was the change effective?
3. On what date did KU agree to bill NAS at a firm load of 2,000 kW?
4. On what date did KU agree to bill NAS at a firm load of 1,800 kW?
5. Did KU draft the revised service contract? If yes, on what date was it sent to NAS for signature?
6. On the last page of the revised service contract, below the signatures, appears the date 10/01/02. Is this the date that the contract was drafted? If no, explain the significance of that date to the contract.
7. To the best of KU's knowledge, when did NAS sign the revised service contract?
8. On what date did KU receive a signed copy of the revised service contract from NAS?
9. On what date did KU sign the revised service contract with NAS?
10. Explain in detail any delay between the date that KU received the signed contract from NAS and the date that KU signed the contract.
11. Explain in detail the reasons why KU agreed to bill NAS based on 2,000 kW firm load prior to the signing of a revised service contract and the filing of that contract with the Commission.

12. Provide the names of the individuals at KU or any of its affiliates who were aware that when KU signed the revised service contract with NAS, KU had already been billing NAS under terms and conditions that differed from those in the original service contract on file with the Commission.

13. Provide the name and title of the individual who signed the revised service contract on behalf of KU.

14. Has KU operated under an earnings sharing mechanism (ESM) since June 1, 2002? Under KU s ESM, will a change in billings to NAS have an impact, however slight, on all of KU s customers?